IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

TUESDAY, THE 17TH JULY 2007 / 26TH ASHADHA 1929

FAO.No. 202 of 2007()

AGAINST THE ORDER DATED 12/04/2007 IN IA.2066/2006 IN OS.35/2006 of PRINCIPAL SUB COURT,KOCHI
.....

APPELLANT/RESPONDENT IN I.A./DEFENDANT IN THE SUIT

SYAMALA, W/O LATE K.N.G.BABU,
SYAMJI NIVAS, HOUSE NO.19/896, PALLURUTHY NORTH MURI, RAMESWARAM VILLAGE, KOCHI TALUK,
ERNAKULAM DISTRICT.

BY ADV. SRI.P.SANJAY
SRI.A.PARVATHI MENON

RESPONDENT: PETITIONER IN I.A./PLAINTIFF IN THE SUIT.

RENJITH KUMAR C.K.,
AGED 47 YEARS, S/O KARUNAKARAN,
CHETTIPARAMBIL HOUSE, PONEKKARA DESOM,
EDAPPALLY SOUTH VILLAGE, KANAYANNOOR TALUK,
ERNAKULAM.

THIS FIRST APPEAL FROM ORDERS HAVING COME UP FOR ADMISSION ON 17/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

F.A.O. NO .202/207

ORDER ON I.A. NO.2544/2007 IN F.A.O. NO.202/2007

DISMISSED

17.07.2007 **SD/- J.B.KOSHY, JUDGE**
SD/- T.R.RAMACHANDRAN NAIR, JUDGE

/TRUE COPY/

P.S. TO JUDGE

tss

J.B. KOSHY and T.R.RAMACHANDRAN NAIR, JJ.

F.A.O. No. 202 of 2007

Dated this the 17th day of July, 2007

Judgment

Koshy, J.

This appeal is filed by the defendant. Suit was filed for realisation of money to the tune of Rs.4,48,000/=. The case was posted on 7.12.2006 for payment of balance court fee. Total court fee that has to be paid was Rs.43,200/=. Only Rs.4,320/= was paid at the inception of the suit. Rs.38,880/= was to be paid thereafter. Balance court fee had to be paid on or before 7.12.2006. Counsel was informed that plaintiff will come on 7.12.2006 to pay the balance court fee. But, on that day, he was laid up due to viral fever and informed the counsel. Hence, an I.A. was filed by the counsel to extend the time by one week for paying balance court fee as he was laid up. But, before the I.A. reached before the court, plaint was rejected. Since plaint was rejected, review petition was filed for reviewing the order and for enlarging the time. Court fee was also paid. Court after considering the affidavit and records was satisfied that reasoning stated

were genuine. Plaintiff was suffering from viral fever and was laid up. The court below found that non-remittance of court fee on 7.12.2006 was not willful. Plaint was rejected only because I.A. did not reach before them. The impugned order was passed in the interest of justice. We see no ground to interfere in the impugned order. Appeal dismissed.

J.B.KOSHY
JUDGE

T.R.RAMACHANDRAN NAIR
JUDGE

vaa

J.B. KOSHY AND
T.R.RAMACHANDRAN NAIR, JJ.

M.F.A.NO./2000

JUDGMENT

Dated:17th July, 2007